IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

OP.No. 15981 of 2002(C)

PETITIONER:

P.V. JOHNSON, S/O. P.L. VAREED,
AGED 41 YEARS, IST GRADE DRAFTSMAN,
OFFICE OF THE ASSISTANT DIRECTOR OF SURVEY
AND LAND RECORDS (RANGE) THRISSUR-1.

BY ADV. SRI.V.A.MUHAMMED,
SRI.K.E.HAMZA,
SRI.E.S.ASHRAF,
SRI.T.V.VIJAYARAJAN.

RESPONDENTS:
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1. **STATE OF KERALA, REP. BY**
   THE SECRETARY TO GOVERNMENT,
   REVENUE DEPARTMENT, SECRETARIAT, TRIVANDRUM.

2. **THE DIRECTOR OF SURVEY AND LAND**
   RECORDS, TRIVANDRUM.

3. **THE ASSISTANT DIRECTOR OF SURVEY**
   AND LAND RECORDS (RANGE), THRISSUR.

4. **SMT.L.L. SATHY, SECOND GRADE DRAFTSMAN**
   O/O. THE ASSISTANT DIRECTOR OF SURVEY
   AND LAND RECORDS (MAPPING) THRISSUR.

prv.

O.P. NO. 15987/2002:

5. SMT. K.B. HASITHA, SECOND GRADE DRAFTSMAN, O/O ASSISTANT DIRECTOR OF SURVEY AND LAND RECORDS (MAPPING) THRISSUR.

BY ADV. SRI.VINOD RAVINDRANATH FOR R4,
SRI.T.R.RAVI FOR R5,
GOVT. PLEADER SMT. T.B. RAMANI FOR R1, R2 & R3.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 08/08/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

prv.

O.P. NO. 15981/2002:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE ORDER NO. SY.A3/25886/95 OF THE R.2. DTD. 25/03/1997.

EXT.P.2: COPY OF THE ORDER NO. SY.A3-17118/94 OF -DO- DTD. 25/04/1995.

EXT.P.3: COPY OF THE ORDER NO. A3-9629/97 OF -DO-. DTD. 27/12/1997.

EXT.P.4: COPY OF THE REQUEST OF THE PETITIONER DTD. 12/02/1998.

EXT.P.5: COPY OF THE ORDER NO. SY.A3.16541/98 OF THE R.2. ALONG WITH THE SENIORITY LIST DTD. 05/04/1999.

EXT.P.6: COPY OF THE ORDER NO. SY. A3.14678/96 OF THE R.2. DTD. 08/03/2001.

EXT.P.7: COPY OF THE ORDER NO. A3.16166/2001 OF -DO- DTD. 31/05/2002.

EXT.P.8: COPY OF THE DECISION REPORTED IN 2002 (1) KLT 615 DTD. 11/10/2001.

RESPONDENT'S EXHIBITS:

EXT.R4.A: COPY OF THE OBJECTIONS FILED BY THE R.4. ON 26/03/2001.

EXT.R4.B: COPY OF THE LETTER DTD. 09/04/2001 OF THE DIRECTOR OF SURVEY TO THE ASSISTANT DIRECTOR, THRISSUR.

EXT.R4.C: COPY OF THE REPRESENTATION SUBMITTED BY THE R.4. TO THE SECRETARY, REVENUE DEPARTMENT.

EXT.R5.A: COPY OF THE OBJECTIONS FILED BY THE R.5. ON 26/03/01 BEFORE THE DIRECTOR OF SURVEY.

EXT.R5.B: COPY OF THE LETTER DTD. 09/04/01 OF THE DIRECTOR OF SURVEY TO THE ASSISTANT DIRECTOR, THRISSUR.

prv.

O.P. NO. 15981/2002:

EXT.R5.C: COPY OF THE REPRESENTATION SUBMITTED BY THE R.5. BEFORE THE SECRETARY, REVENUE DEPARTMENT DTD. 01/09/2001.

//TRUE COPY//

P.S. TO JUDGE

prv.

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.15981 of 2002-C

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Dated this the 8th day of August, 2007.

JUDGMENT

The learned Government Pleader takes notice for the 3rd respondent. Service complete.

2. The petitioner was placed above the private respondents in Ext.P5 final seniority list issued by the Director. Three years thereafter, Ext.P7 has been issued by the Director upsetting that seniority position on the representation of the private respondents. This has been done without issuing any notice to the petitioner. Secondly, it is rightly pointed out by the learned counsel for the petitioner that in terms of Rule 27(b) in Part II of K.S & S.S.R., any interference with the final seniority list issued by the Director, i.e., Ext.P5. could have been only by the

Government, that too, if the private respondents had moved the Government within the statutory time limit.

3. The learned Government Pleader, however, contends that the placement of the petitioner in Ext.P5 seniority list above the private respondents was essentially a mistake and that ought to be rectified and the seniority list re-done. Once a final seniority list had become final, as already noticed, it was inappropriate for the Director to interfere with it, at any rate, even without notice to the petitioner. Even assuming that the Director noticed the mistake only while taking into consideration the objections filed by the private respondents to Ext.P6 promotion order, the course that would have been was to bring it to the notice of the Government so that the Government could exercise its authority under the Rules, as noticed above.

4. In the aforesaid circumstances, Ext.P7 is quashed and it is directed that the Director will transmit the

objections filed by the private respondents to Ext.P6 promotion order with his comments as regards the correctness of Ext.P5 seniority list to the Government and the Government will, thereafter, afford an opportunity of hearing to the private respondents and the petitioner and decide the matter accordingly in terms of the General Rules, including as to the maintainability of such proceedings.

The writ petition is allowed as above.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

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O.P.No.15981 of 2002-C

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JUDGMENT

Dated: 8th August, 2007.